

claims 1 and 14 under 35 U.S.C. §102(e). Thus, with respect to claim 1, the Office cannot properly use Schoenberg as teaching the element of "access to each of said medical and biographical records being controlled by the corresponding individual patient of said plurality of patients". With respect to claim 14, the Office cannot properly use Schoenberg as teaching the elements of "executing a security program limiting access to the database to the individual patients inputting information into their own records and to health professional selectively authorized by patients to input additional information to the patients' records" and "executing a security program limiting access to the database to the individual patients retrieving information from their own records and to the health care professional selectively authorized by the patients". Applicant is not opining as to the teachings of Schoenberg because given the fact that Schoenberg cannot be used as prior art against claims 1 and 14 of the present application, such an opinion would be superfluous. Omitting a direct response to the Examiner's interpretations of the teachings disclosed in Schoenberg should not be inferred to mean applicant concurs with the Examiner's opinions or interpretations.

In view of the foregoing, applicant respectfully requests withdrawal of the rejections of claims 1 and 14 as being obvious over Lavin in view of Bessette, Wilkins and Schoenberg.

Claims 2-6, 73-75 and 85-94 depend either directly or indirectly from claim 1 and are patentable over the references of record for the same reasons as claim 1. Claims 15-48 and 76-78 depend either directly or indirectly from claim 14 and are patentable over the references of record for the same reasons as claim 1. Accordingly, applicant requests the rejections of claims 2-6, 15-48, 73-78 and 85-94 be withdrawn.

Claim 49-67

Claims 49-67 stand rejected as being obvious in view US Patent No. 5,772,585 (Lavin) in view of US Patent Nos. 6,263,330 (Bessette), 6,523,009 (Wilkins), 6,849,045 (Iliff) and 6,463,417 (Schoenberg).

Applicant has filed simultaneously herewith a Declaration of Prior Invention under 37 C.F.R. §1.131 to prove that the applicant's date of invention predates the earliest filing date of Schoenberg. Accordingly, Schoenberg cannot be used as prior art against

claim 49 under 35 U.S.C. §102(e). Thus, the Office cannot properly use Schoenberg as teaching the element of "a security program limiting access to the medical and biographical records database to the individual patient to whom the diagnosis relates and to health care professionals selectively authorized by the patient to access the records". Applicant is not opining as to the teachings of Schoenberg because given the fact that Schoenberg cannot be used as prior art against claim 49 of the present application, such an opinion would be superfluous. Omitting a direct response to the Examiner's interpretations of the teachings disclosed in Schoenberg should not be inferred to mean applicant concurs with the Examiner's opinions or interpretations.

In view of the foregoing, applicant respectfully requests withdrawal of the rejection of claim 49 as being obvious in view Lavin in combination with Bessette, Wilkins, Iliff and Schoenberg.

Claims 50-67 and 79-81 depend either directly or indirectly from claim 49 and are patentable over the references of record for the same reasons as claim 49. Applicant requests the rejections of claim 50-67 and 79-81 be withdrawn.

Claims 68-72

Claims 68-72 stand rejected as being obvious over US Patent No. 5,772,585 (Lavin) in view of US Patent Nos. 6,263,330 (Bessette), 6,523,009 (Wilkins), 6,849,045 (Iliff) and 6,463,417 (Schoenberg).

Applicant disagrees with the Examiner's contention that Bessette teaches "comparing the patient diagnosis and prescribed services or treatment records with approved therapeutic treatment for the identified diagnosis" and that Iliff teaches "approving or disapproving payment for the prescribed services or treatment". Referring first to Bessette, the Examiner points to col. 12, lines 51 to col. 13, lines 38, as providing this purported teaching. However, no where in this section is there a teaching or suggestion that a patient diagnosis and prescribed services or treatment records are **compared** with approved therapeutic treatment for the identified diagnosis. Instead, Bessette merely teaches that a consultant can "look up the specifics concerning John Doe's current medication." Col. 12, lines 66-67. There is no teaching that a diagnosis and services are **compared** to approved treatment.

Moreover, applicant has reviewed the portions of Iliff that the Examiner asserts as teaching a step of "approving or disapproving payment for the prescribed services or treatment". Even under the most liberal interpretation, applicant cannot find any teaching or suggestion in Iliff of approving or disapproving payment for the prescribed services or treatment.

For these reasons, claim 68 is patentable over the references of record.

Claims 69-72 and 82-84 depend either directly or indirectly from claim 68 and are patentable for at least the same reasons as claim 68. Applicant requests withdrawal of rejections of claims 69-72 and 82-84.

Conclusion

In view of the foregoing, reconsideration and allowance of claims 1-6 and 14-94 is respectfully requested.

Applicants request a one month extension of time for filing a response to the above-mentioned Office action. The Commissioner is hereby authorized to charge this fee, and any other necessary fees, to Deposit Account No. 19-1345.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'JH Conway', with a stylized flourish at the end.

Jason H. Conway, Reg. No. 61,381
SENNIGER POWERS LLP
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

JHC/dss